

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 14944
[REDACTED])	
Petitioner.)	DECISION
)	
)	

On May 16, 2000, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for the taxable years 1995 and 1998 in the total amount of \$5,647.

On July 18, 2000, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing but asked if he could submit returns for the Tax Commission to consider. The taxpayer provided a copy of his 1995 return but did not provide a copy of his 1998 return. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information from the Idaho Department of Labor that the taxpayer received wages that were reported to the Idaho Department of Labor. The Bureau reviewed the Tax Commission's records and found the taxpayer did not file Idaho income tax returns for 1995 and 1998. The Bureau sent the taxpayer a letter asking about his filing requirement with the state of Idaho but received no response from the taxpayer.

[Redacted]. The Bureau prepared returns for the taxpayer and sent the taxpayer a Notice of Deficiency Determination.

The taxpayer protested the Bureau's determination stating that he believed his 1995 return had been filed. He also stated that his 1998 return was prepared. He said it resulted in a refund, but it had not been filed because his wife did not have a social security number. The taxpayer led the Bureau to believe that he would provide copies of the returns.

The Bureau never received returns from the taxpayer, so the case was referred for administrative review. The Tax Commission sent the taxpayer a letter giving him two options for having the Notice of Deficiency Determination redetermined. The taxpayer responded saying that he was having trouble getting an Individual Taxpayer Identification Number (ITIN) for his soon to be ex-wife. He stated his wife was not being very cooperative. The taxpayer stated he was going to try to get the judge at his divorce hearing to require his wife to get an ITIN. He would then submit his returns.

A few weeks after the taxpayer's divorce hearing, the Tax Commission still had no returns from the taxpayer. The Tax Commission contacted the taxpayer and requested the returns. The taxpayer stated he was able to get his ex-wife to stipulate to getting an ITIN at the divorce hearing but he had no way of seeing that it was followed through. The taxpayer stated he would fax the Tax Commission copies of his returns without the ITIN.

The Tax Commission did receive a faxed copy of the taxpayer's 1995 Idaho return but nothing for 1998. The Tax Commission sent the taxpayer a letter giving him a deadline date for submitting his 1998 return to the Tax Commission. The date passed with no response from the taxpayer. Therefore, the Tax Commission decided the matter based upon the information available.

The taxpayer provided a copy of his 1995 Idaho income tax return. The return showed the taxpayer as a part-year resident of Idaho in 1995. Although the taxpayer did not include a

complete copy of his federal return for 1995, the Tax Commission found the taxpayer's return to be more representative of the taxpayer's taxable income than the return prepared by the Bureau. Therefore, the Tax Commission accepted the taxpayer's 1995 return subject to the normal review processes of the Tax Commission.

However, for tax year 1998, the taxpayer failed to provide a return for the Tax Commission to consider. [Redacted]. Since the taxpayer provided nothing to show the 1998 return prepared by the Bureau was incorrect, he failed to meet his burden of proof. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984).

The 1998 return the Bureau prepared showed a filing status of single for the taxpayer. However, the taxpayer was married during 1998. Therefore, the Tax Commission changed the taxpayer's filing status to married filing separate.

The Bureau added interest and penalty to the taxpayer's Idaho tax in accordance with Idaho Code sections 63-3045 and 63-3046. The Tax Commission reviewed those additions and found them to be appropriate.

WHEREFORE, the Notice of Deficiency Determination dated May 16, 2000, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1995	\$ 9	\$ 10	\$ 4	\$ 23
1998	\$680	\$170	\$164	<u>\$1,014</u>
TOTAL DUE				<u>\$1,037</u>

Demand for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is include with this decision.

DATED this _____ day of _____, 2002.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2002, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

ADMINISTRATIVE ASSISTANT 1